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RYLEY CARLOCK & APPLEWHITE

One North Central Avenue, Suite 1200
Phoenix, AZ 85004-4417
Telephone 602-440-4800
Fax 602-257-9582

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Sheryl A. Sweeney (No. 009863)

ssweeney@rcalaw.com

Albert H. Acken (No. 021645)

aacken@rcalaw.com

Samuel L. Lofland (No. 026653)

slofland@rcalaw.com

*Attorneys for Electrical District Number Six, Pinal
County, Arizona; Electrical District Number Seven
of the County of Maricopa, State of Arizona;
Aguila Irrigation District; Tonopah Irrigation District;
Harquahala Valley Power District; and Maricopa
County Municipal Water Conservation District Number One*

Arizona Corporation Commission

DOCKETED

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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

TOM FORESE, Chairman

BOB BURNS

BOYD DUNN

DOUG LITTLE

ANDY TOBIN

IN THE MATTER OF THE
APPLICATION OF ARIZONA PUBLIC
SERVICE COMPANY FOR A HEARING
TO DETERMINE THE FAIR VALUE OF
THE UTILITY PROPERTY OF THE
COMPANY FOR RATEMAKING
PURPOSES, TO FIX A JUST AND
REASONABLE RATE OF RETURN
THEREON, TO APPROVE RATE
SCHEDULES DESIGNED TO DEVELOP
SUCH RETURN

DOCKET NO. E-01345A-16-0036

IN THE MATTER OF FUEL AND
PURCHASED POWER PROCUREMENT
AUDITS FOR ARIZONA PUBLIC
SERVICE COMPANY.

DOCKET NO. E-1345A-16-0123

**RESPONSE TO
COMMISSIONER BURN'S
QUESTIONS REGARDING THE
PROPOSED SETTLEMENT**

Electrical District Number Six, Pinal County, Arizona ("ED6"); Electrical
District Number Seven of the County of Maricopa, State of Arizona ("ED7"); Aguila
Irrigation District ("AID"); Tonopah Irrigation District ("TID"); Harquahala Valley

1 Power District ("HVPD"); and Maricopa County Municipal Water Conservation
2 District Number One ("MWD") (hereinafter collectively referred to as the "Districts")
3 provide this response to the question raised in Commissioner Burn's letter, docketed
4 April 11, 2017, asking how Commission approval of the Proposed Settlement
5 Agreement may be detrimental to ratepayers.

6 As explained herein, the Proposed Settlement Agreement is a great deal for APS,
7 but a terrible deal for many ratepayers, including farmers.

8 APS has played the rate increase game to perfection. After establishing an
9 extremely high opening offer, as reflected in its application, APS then initiated
10 settlement discussions from a position of unparalleled strength and created the
11 appearance of compromise by "settling" under the less extreme (but unproven and
12 unreasonable) terms of the Proposed Settlement Agreement. The inherently unequal
13 power of the parties who participated in the settlement process resulted in a settlement
14 that favors APS and rooftop solar interests at the expense of ratepayers. The Proposed
15 Settlement Agreement will provide even greater profits for APS without subjecting
16 APS's claims and ever spiraling costs to a public, open, honest, and fair scrutiny. APS
17 pursues its agenda in the shadows, and the Proposed Settlement Agreement is the
18 natural consequence of this approach.

19 **I. The Settlement Process Benefitted APS And Rooftop Solar Interests**
20 **At The Expense Of Ratepayers**

21 There is no question that the Proposed Settlement is a great deal for APS, its
22 executives, and its shareholders. APS maintains its current debt/equity ratio, receives a
23 higher than market average rate of return on equity, and a fair value increment of 0.8%.
24 In addition, the settlement resolves APS's disputes with rooftop solar interests, provides
25 for a greatly increased depreciation expense, defers costs associated with the
26 unnecessary Ocotillo Modernization Project, and authorizes time of use rates that will
27 be punishing for working families. APS receives all of these benefits without having to
28

1 prove why any increase is needed. Why does APS need more money in an era where
2 load is flat and fuel prices are decreasing? If the settlement is approved, who will ever
3 know?

4 It is also a good deal for the rooftop solar parties, who have been engaged in an
5 existential battle with APS for years. In return for signing on to a settlement that
6 increases APS's base rates by \$95,000,000 and increases depreciation by \$61,000,000,
7 they resolve their long-running battles and receive certainty and an opportunity to
8 compete for the foreseeable future. In fact, both RUCO and Staff pointed to resolution
9 of the rooftop solar debates as the primary benefit of the settlement:

10 "Of significant importance is a separate agreement which APS,
11 industry representatives, and solar advocates commit to stand by the
12 settlement agreement and refrain from seeking to undermine it
13 through ballot initiatives, legislation or advocacy at the
14 Commission." [Testimony of RUCO Director David Tenney in
15 support of the settlement agreement]

16 "I believe there was one major policy consideration that Staff and
17 other Signatories had to address in order to balance the interests of
18 all parties... A major and important part of the Agreement is the
19 resolution of many of these contentious issues related to DG solar
20 for the term of the Agreement." [Testimony of Acting Utilities
21 Division Director Elijah Abinah in support of the settlement
22 agreement]

23 Under the terms of the Proposed Settlement Agreement, APS' ratepayers would
24 pay for the benefits that accrue to APS and the rooftop solar interests. The Districts
25 respectfully submit that the battles between APS and rooftop solar should not be settled
26 to the detriment to ratepayers.

27 **II. APS Dictated The Terms Of The Settlement Process And Result**

28 Why is the settlement such an inequitable result? APS held nearly all of the
cards in the settlement process. This is of course the natural consequence of a rate case
settlement process that did not require unanimity and did not have a relative balance of
power among the parties. See, e.g., *Problems for Captive Ratepayers in Nonunanimous
Settlements of Public Utility Rate Cases*, Yale Journal on Regulation, Vol. 12, Issue 2,

1 1995 at 303 ("without a balance of power, it is unlikely that the result will be
2 equitable").

3 There can be no question that APS held by far the most power in the settlement
4 discussions. APS was the only party that could unilaterally start or end settlement
5 discussions, so it set the terms and direction. APS wanted to pump up revenues and
6 resolve its disputes with EFCA and rooftop solar, and used this process to do so. Once
7 Commission Staff signaled a desire to settle, other parties with some bargaining power,
8 albeit limited, took the best deals that APS was willing to give to them. Individual
9 intervenors and certain consumer advocates with even less power were not deemed to
10 be necessary parties to the settlement, and so those parties were offered no meaningful
11 concessions. The Districts are in a better negotiating position than most customers
12 because they have the option to purchase some of their power from hydro-generation
13 sources, and as a result were perhaps the only customers that did not feel pressure to
14 sign on to a bad deal.

15 Not every APS rate case should be settled. In fact, it would be in the public
16 interest if APS were required to justify its ever increasing rates in the open, rather than
17 behind closed doors in a confidential settlement process. Significant policy issues
18 deserve to be tried and tested in an open, public, adversarial forum: Why does APS
19 need any revenue increase in an environment with little load growth and decreasing
20 wholesale power costs? Why does APS need a premium rate of return on equity when it
21 also receives a premium fair value increment and has an unbalanced equity to debt
22 ratio? Why should ratepayers pay hundreds of millions of dollars to end the long-
23 running feud between APS and rooftop solar interests?

24 **III. The Settlement Agreement Is a Bad Deal For Farmers**

25 The Districts predominately serve agricultural-related loads and the Districts'
26 customers need cost-effective electric rates to pump their wells. The Districts are
27 wholesale customers under contracts that index their contractual rate to the E-34 retail
28

1 rate – increasing as rapidly as E-34 increases. Over the past 11 years, the resulting APS
2 contractual rates charged to the Districts have gone up 21%. This results in an
3 approximately \$10 AF increase in water prices, due to APS rate increases alone. This is
4 an unsustainable increase for farmers, which is why fields lie fallow in those areas
5 where farmers have no alternative to APS retail rates, and it explains why the Districts
6 strive to minimize wholesale purchases of power from APS.

7 Rather than take steps to make its rates more commercially attractive, APS reacts
8 the way an unchecked monopoly has the tendency to do, which is to be unnecessarily
9 difficult and antagonistic in the areas in which the Districts must work with APS,
10 specifically line extensions and other distribution service requests. The Proposed
11 Settlement Agreement, which would increase rates without examining why APS has
12 ever-increasing costs, will not improve APS's eroding relationships with its agricultural
13 customers who face APS's ever-increasing rates.

14 Conclusion

15 The Proposed Settlement would give APS more than it could have hoped to
16 achieve in a contested proceeding. It would extract a king's ransom from ratepayers and
17 leave important policy questions unanswered. Negotiated from a position of great and
18 unequal strength by APS, it is a bad deal for the Districts, Arizona farmers, and APS
19 ratepayers generally.

20 RESPECTFULLY SUBMITTED this 18th day of April, 2017.

21 **RYLEY CARLOCK & APPLEWHITE**

22 By: 

23 Sheryl A. Sweetley

24 Albert H. Acken

25 Samuel L. Lofland

26 One N. Central Avenue, Suite 1200

27 Phoenix, AZ 85004-4417

28 *Attorneys for Electrical District Number Six,
Pinal County, Arizona; Electrical District
Number Seven of the County of Maricopa, State
of Arizona; Aguila Irrigation District; Tonopah
Irrigation District; Harquahala Valley Power*

District; and Maricopa County Municipal
Water Conservation District Number One
E-mail: ssweeney@rcalaw.com;
aacken@rcalaw.com; slofland@rcalaw.com

ORIGINAL and 13 COPIES of
the foregoing filed this 18 day
of April, 2017, with:

Docket Control
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

COPIES of the foregoing mailed
this 18 day of April, 2017 to:

Thomas Broderick, Director
ARIZONA CORPORATION COMMISSION
1200 W. Washington St.
Phoenix, Arizona 85007

Janice Alward, Chief Counsel
ARIZONA CORPORATION COMMISSION
1200 W. Washington
Phoenix, Arizona 85007

Thomas Jernigan
FEDERAL EXECUTIVE AGENCIES
U.S. Airforce Utility Law Field Support Center
Tyndall Air Force base Florida 32403
thomas.jernigan.3@us.af.mil
ebony.payton.crt@us.af.mil
andrew.unisicker@us.af.mil
lanny.zieman.1@us.af.mil
natalie.cepak.2@us.af.mil
Consented to Service by Email

Kurt Boehm
BOEHM, KURTZ & LOWRY
36 E. Seventh St. Suite 1510
Cincinnati Ohio 45202

Nicholas J. Enoch
LUBIN & ENOCH, PC
349 N. Fourth Ave.
Phoenix Arizona 85003

Richard Gayer
526 W. Wilshire Dr.
Phoenix Arizona 85003
rgayer@cox.net
Consented to Service by Email

1 Thomas A Loquvam
PINNACLE WEST CAPITOL CORPORATION
2 400 N. 5Th St, MS 8695
Phoenix, Arizona 85004
3 Thomas.Loquvam@pinnaclewest.com
Thomas.Mumaw@pinnaclewest.com
4 Melissa.Krueger@pinnaclewest.com
Amanda.Ho@pinnaclewest.com
5 Debra.Orr@aps.com
prefo@swlaw.com
6 **Consented to Service by Email**

7 Timothy M. Hogan
ARIZONA CENTER FOR LAW IN THE PUBLIC INTEREST
8 514 W. Roosevelt Street
Phoenix, AZ 85003
9 thogan@aclpi.org
ken.wilson@westernresources.org
10 schlegelj@aol.com
ezuckerman@swenergy.org
11 bbaatz@aceee.org
briana@votesolar.org
12 cosuala@earthjustice.org
dbender@earthjustice.org
13 cfitzgerrell@earthjustice.org
14 **Consented to Service by Email**

15 Timothy Sabo
SNELL & WILMER, LLP
16 One Arizona Center
Phoenix Arizona 85004
17 tsabo@swlaw.com
jhoward@swlaw.com
18 docket@swlaw.com
walker@conservamerica.org
19 **Consented to Service by Email**

20 Cynthia Zwick
ARIZONA COMMUNITY ACTION ASSOCIATION
21 2700 N. Third St. - 3040
Phoenix Arizona 85004
22 czwick@azcaa.org
khengehold@azcaa.org
23 **Consented to Service by Email**

24 Jay I. Moyes
MOYES SELLERS & HENDRICKS, LTD
25 1850 N. Central Ave. - 1100
Phoenix Arizona 85004
26 JasonMoyes@law-msh.com
jimoyes@law-msh.com
27 jim@harcuvar.com
28 **Consented to Service by Email**

1 Michael Patten
2 SNELL & WILMER, LLP
3 One Arizona Center
4 400 East Van Buren Street
5 Phoenix Arizona 85004
6 mpatten@swlaw.com
7 jhoward@swlaw.com
8 docket@swlaw.com
9 BCarroll@tep.com

10 **Consented to Service by Email**

11 Greg Patterson
12 MUNGER CHADWICK
13 916 W. Adams Suite 3
14 Phoenix Arizona 85007

15 Janet Wagner
16 ARIZONA CORPORATION COMMISSION
17 1200 W Washington
18 Phoenix Arizona 85007
19 Legaldiv@azcc.gov
20 JXHatch-Miller@azcc.gov
21 chains@azcc.gov
22 wvancleve@azcc.gov
23 eabinah@azcc.gov
24 tford@azcc.gov
25 evanepps@azcc.gov
26 cfitzsimmons@azcc.gov
27 kchristine@azcc.gov
28 mscott@azcc.gov

Consented to Service by Email

Timothy La Sota
ARIZONA CORPORATION COMMISSION
1200 W Washington
Phoenix Arizona 85007
Legaldiv@azcc.gov
chains@azcc.gov
wvancleve@azcc.gov
eabinah@azcc.gov
tford@azcc.gov
evanepps@azcc.gov
cfitzsimmons@azcc.gov
kchristine@azcc.gov
mscott@azcc.gov
EAbinah@azcc.gov

Consented to Service by Email

Daniel Pozefsky
RUCO
1110 West Washington, Suite 220
Phoenix Arizona 85007

1 Dwight Nodes
2 ARIZONA CORPORATION COMMISSION
3 1200 W. Washington
4 Phoenix Arizona 85007-2927
5 HearingDivision@azcc.gov
6 **Consented to Service by Email**

7 Anthony Wanger
8 IO DATA CENTERS, LLC
9 615 N. 48th St
10 Phoenix Arizona 85008

11 Giancarlo Estrada
12 KAMPER ESTRADA, LLP
13 3030 N. 3rd Street, Suite 770
14 Phoenix Arizona 85012
15 gestrada@law.phx.com
16 kfox@kfwlaw.com
17 kcrandall@eq-research.com
18 **Consented to Service by Email**

19 Meghan H. Grabel
20 OSBORN MALADON, PA
21 2929 N. Central Avenue Suite 2100
22 Phoenix Arizona 85012
23 mgrabel@omlaw.com
24 gyaquinto@arizonaic.org
25 **Consented to Service by Email**

26 Scott S. Wakefield
27 HIENTON & CURRY, PLLC
28 5045 N 12th Street, Suite 110
Phoenix Arizona 85014-3302
swakefield@hclawgroup.com
mlougee@hclawgroup.com
Stephen.chriss@wal-mart.com
Greg.tillman@walmart.com
chris.hendrix@wal-mart.com
Consented to Service by Email

29 Garry Hays
30 LAW OFFICES OF GARRY D. HAYS, PC
31 2198 East Camelback Road, Suite 305
32 Phoenix Arizona 85016
33 ghays@lawgdh.com
34 **Consented to Service by Email**

35 Patrick J. Black
36 FENNEMORE CRAIG, P.C.
37 2394 E. Camelback Rd, Ste 600
38 Phoenix Arizona 85016
39 pblack@fclaw.com
40 khiggins@energystrat.com
41 **Consented to Service by Email**

1 John Moore, Jr.
2 MOORE BENHAM & BEAVER, LC
3 7321 N. 16th Street
4 Phoenix Arizona 85020

5 Tom Harris
6 ARIZONA SOLAR ENERGY INDUSTRIES ASSOCIATION
7 2122 W. Lone Cactus Dr. Suite 2
8 Phoenix Arizona 85027
9 Tom.Harris@AriSEIA.org
10 **Consented to Service by Email**

11 Craig A. Marks
12 CRAIG A. MARKS, PLC
13 10645 N. Tatum Blvd. Suite 200-676
14 Phoenix Arizona 85028
15 Craig.Marks@azbar.org
16 Pat.Quinn47474@gmail.com
17 **Consented to Service by Email**

18 Ann-Marie Anderson
19 WRIGHT WELKER & PAUOLE, PLC
20 10429 South 51st Street, Suite 285
21 Phoenix Arizona 85044
22 aanderson@wwpfirm.com
23 sjennings@aarp.org
24 aallen@wwpfirm.com
25 john@johncoffman.net
26 **Consented to Service by Email**

27 Dennis Fitzgibbons
28 FITZGIBBONS LAW OFFICES, PLC
P.O. Box 11208
Casa Grande Arizona 85230
denis@fitzgibbonslaw.com
Consented to Service by Email

Court S. Rich
ROSE LAW GROUP, PC
7144 E. Stetson Drive, Suite 300
Scottsdale Arizona 85251
crich@roselawgroup.com
hslaughter@roselawgroup.com
clcedford@mcdonaldcarano.com
Consented to Service by Email

Thomas Stewart
GRANITE CREEK POWER & GAS/GRANITE CREEK FARMS
5316 East Voltaire Avenue
Scottsdale Arizona 85254-3643
tom@gcfaz.com
Consented to Service by Email

1 Greg Eisert
2 SUN CITY HOME OWNERS ASSOCIATION
3 10401 W. Coggins Drive
4 Sun City Arizona 85351
5 gregeisert@gmail.com
6 steven.puck@cox.net
7 **Consented to Service by Email**

8 Albert E. Gervenack
9 SUN CITY WEST PROPERTY OWNERS &
10 RESIDENTS ASSOCIATION
11 13815 Camino Del Sol
12 Sun City Arizona 85372
13 al.gervenack@porascw.org
14 rob.robbs@porascw.org
15 Bob.miller@porascw.org
16 **Consented to Service by Email**

17 Patricia C. Ferre
18 P.O. Box 433
19 Payson, Arizona 85547
20 pFerreact@mac.com
21 **Consented to Service by Email**

22 Lawrence Robertson, Jr.
23 210 Continental Road, Suite 216A
24 Green Valley, Arizona 85622
25 tubaclawyer@aol.com
26 **Consented to Service by Email**

27 Charles Wesselhoft
28 Pima County Attorney's Office
32 North Stone Avenue, Suite 2100
Tucson, Arizona 85701
Charles.Wesselhoft@pcao.pima.gov
Consented to Service by Email

Warren Woodward
55 Ross Circle
Sedona Arizona 86336
w6345789@yahoo.com
Consented to Service by Email

Robert Pickels, Jr.
Sedona City Attorney's Office
102 Roadrunner Drive
Sedona Arizona 86336
rpickels@sedonaaz.gov
Consented to Service by Email

By: J. Kamm